IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Ishwar Lal. Versus State of Rajasthan & Anr.

S.B. Criminal Revision No. 297/2006 against the order dated 23-3-2006 passed by the Addl. Sessions Judge (Fast Track), Pratapgarh in Sessions Case No.151/2005.

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Date of Order: April 27, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Rahul Bathi, for the petitioner.
Mr. JPS Chaudhary, Public Prosecutor for the State.
None present for the non-petitioner No.2 though served.

BY THE COURT:

This criminal revision under Section 397/401 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter) is directed against the order dated 23-3-2006 passed by the Additional Sessions Judge (Fast Track), Pratapgarh (for short, "the trial Court" hereinafter) in Sessions Case No. 151/2005, whereby the trial Court framed charges against the petitioner for the offences under Sections 306/511, 387 and 384 IPC. Aggrieved by the order impugned framing charges, the petitioner has filed the instant criminal revision.

I have heard learned counsel for the parties.

Perused the order impugned as also the Challan papers and the statements of witnesses.

The case, as unfolded by the prosecution in the Challan papers, is that non-petitioner No.2 caused a road accident by driving a car rashly and negligently and caused grievous injuries to Jeetu alias Jitendra. It appears that at the time of causing the accident, the driver and owner of the car, i.e. non-petitioner No.2 Shailender agreed to pay the expenses for treatment and also to pay compensation; however, subsequently he resiled from his promise, on which the brother of the victim of road accident demanded the compensation as also the expenses incurred for treatment of injured Jeetu alias Jitendra. Finding himself not in a position to pay the compensation for the accident caused by him, he consumed some sleeping pills (Nitrovat-5) and alleged to have made an attempt to commit suicide.

It is contended by the learned counsel for the petitioner that even if the prosecution evidence proposed to be produced in trial remains uncontroverted then also the essential ingredients for abetment to commit suicide as also extortion are not made out. He has relied on a decision of this Court in Navratan Mal alias Shankar Lal Vs. State of Rajasthan, 2006 (4) RDD 2210 (Raj.), wherein this Court held that there is no specific evidence which shows that the petitioner therein instigated the

deceased to commit suicide.

In Rameshwar Dayal Vs. State of Rajasthan, 1999 (2) RCC 1064, this Court held that in order to construe the offence under Section 306 IPC, there must be some evidence that the deceased person was instigated to commit suicide. The essential ingredients for the offence under Section 306 IPC are that any person commits suicide on being abetted by some person to commit suicide.

In Manish Kumar Sharma Vs. State of Rajasthan, 1995 Cr.L.J. 3066, this Court held that to construe an offence under Section 306 IPC, mens rea is an essential ingredient. In that case, the accused had lent certain amount to the victim lady and he was persistently demanding from her the amount paid. The victim was not in a position to repay the amount. It was held that demanding of money given on loan was not an offence under any provision of criminal law. There was also no evidence to suggest or indicate that the accused knew or had reason to believe that victim had purchased poisonous tablets and would commit suicide.

In Ramesh Kumar Vs. State of Chhattisgarh, 2001 (9) SCC 618, the Hon'ble Supreme Court held as under:-

> " Word utter in a fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation. If it transpires to the Court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in

> domestic life quite common to the society to which the victim belonged and such petulance, discord or differences we not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the Court should not be satisfied for basing a finding that the accused charged for abetting the offence of suicide should be found guilty."

In Sanju alias Sanjay Singh Sengar Vs. State of M.P., 2002 (5) SCC 371, the deceased wrote a suicide note alleging therein that Sengar is responsible for his death. The Hon'ble Apex Court held that the ingredients of abetment are totally absent in the instant case for construing the offence under Section 306 IPC. It is in the statement of the widow of the deceased that the deceased husband always remained in a drunken condition. It is common knowledge that excessive drinking leads to one to debauchery. It clearly appeared, therefore, that the deceased was a victim of his own conduct unconnected with the quarrel that had ensued on 25-07-1998 where the appellant is stated to have used abusive language. The Apex Court held that it will lead to the irresistible conclusion that it is the deceased and he alone, and none else, who was responsible for his death.

In the instant case, at the time of demanding compensation amount for the wrong done by the complainant/non-petitioner No.2, the petitioner had not instigated or abetted the non-petitioner No.2 to commit suicide.

There appears to be no element of abetment from the facts available on record and, therefore, in my view, the very essential ingredients for the offence under Section 306/511 IPC are not made out.

So far as other offences under Sections 484 and 387 IPC are concerned, these offences have not been challenged by the petitioner before the court below.

Consequently, the revision petition is partly allowed. The impugned order dated 23-3-2006 passed by the trial Court in Sessions Case No.151/2005, to the extent of framing charge against the petitioner for the offence under Section 306/511 IPC, is set aside. The stay petition also stands disposed of.

(H.R. PANWAR), J.

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